#### ORDINANCE NO. 2010.38

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 14, TEMPE CITY CODE, RELATING TO FIRE PREVENTION AND PROTECTION BY ADDING A NEW ARTICLE III RELATING TO FIREWORKS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Chapter 14 of the Tempe City Code is hereby amended by adding a new Article III as follows:

#### ARTICLE III. FIREWORKS

#### Sec. 14-50. Definitions.

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City permit means a permit issued by the fire chief or designee.

Consumer fireworks mean those fireworks defined by Arizona Revised Statutes, § 36-1601.

Display fireworks mean those fireworks defined by Arizona Revised Statutes, § 36-1601.

Expenses of an emergency response means reasonable costs directly incurred by public agencies including but not limited to the city fire, police and public works departments or other first responders including but not limited to private ambulance companies that make an appropriate emergency response to an incident.

Fireworks mean consumer fireworks, display fireworks or permissible consumer fireworks as defined by Arizona Revised Statutes, § 36-1601.

Novelty items mean federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow worms, snakes, toy smoke devices and sparklers.

Permissible consumer fireworks mean those fireworks as defined by Arizona Revised Statutes, § 36-1601 that may be sold within the city even where the use of those items has been prohibited.

Supervised public display means a monitored performance of display fireworks open to the public and authorized by city permit.

# Sec. 14-51. Fireworks prohibited; exceptions.

- (a) The use, discharge or ignition of fireworks within the city is prohibited.
- (b) Nothing in this section or article shall be construed to prohibit the use of novelty items or the occurrence of a supervised public display of fireworks authorized by city permit.

#### Sec. 14-52. Sale of fireworks.

- (a) No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under sixteen (16) years of age.
- (b) No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law or Tempe City Code.

# Sec. 14-53. Posting of signs by persons engaged in the sale of fireworks; civil penalty.

- (a) Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs indicating the following:
  - (1) The use of fireworks, except novelty items as defined by this code, including permissible consumer fireworks is prohibited; and
  - (2) Consumer fireworks authorized for sale under state law may not be sold to persons under the age of sixteen (16).
- (b) Signs required under this section shall be placed in each area where fireworks are displayed and at each cash register where fireworks are sold.
- (c) The fire chief or designee shall develop regulations concerning the size and color of the required signs and shall develop a model sign. The required sign regulations and model sign shall be posted on the city's website and filed with the clerk's office.
- (d) Failure to comply with subsections (a) and (b) of this section is a civil offense punishable by a minimum fine of two hundred fifty dollars (\$250).

# Sec. 14-54. Authority to enforce violations of this article; means of enforcement.

- (a) The fire chief or designee, or a city police officer may issue civil complaints to enforce violations of this article designated as civil offenses.
- (b) Any person authorized pursuant to this section to issue a civil complaint may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid issuance of a civil or criminal complaint.
- (c) The fire chief or designee, or a city police officer may issue criminal complaints to enforce this article.

### Sec. 14-55. Penalty.

The penalty for violating any prohibition or requirement imposed by this article is a class 3 misdemeanor with a minimum fine of two hundred fifty dollars (\$250) unless another penalty is specifically provided for.

# Sec. 14-56. Liability for emergency responses related to use of fireworks.

- (a) A person who uses, discharges or ignites permissible consumer fireworks, fireworks or anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation of this article is prima facie evidence of liability under this section.
- (b) The expenses of an emergency response are a charge against the person liable for those expenses pursuant to subsection (a) of this section. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, or other first responders that incurred the expenses. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.

<u>Section 2.</u> Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this <u>21st</u> day of <u>October</u>, 2010.

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ATTEST:

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APPROVED AS TO FORM: